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Agenda item 158

International convention against the reproductive cloning of human beings

Report of the Sixth Committee

Rapporteur: Mr. Metod **Špaček** (Slovakia)

I. Introduction

1. The item entitled "International convention against the reproductive cloning of human beings" was included in the provisional agenda of the fifty-eighth session of the General Assembly pursuant to Assembly decision 57/512 of 19 November 2002.

2. At its 2nd plenary meeting, on 19 September 2003, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 10th to 12th, 19th and 23rd meetings, on 20, 21 and 31 October and on 6 November 2003. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/58/SR.10-12, 19 and 23).

4. Pursuant to paragraph (b) of General Assembly decision 57/512, the Committee, at its 1st meeting, on 29 September 2003, convened a working group to continue the work undertaken during the fifty-seventh session to consider the elaboration of a mandate for the negotiation of an international convention against the reproductive cloning of human beings, including a list of the existing international instruments to be taken into consideration and a list of legal issues to be addressed in the convention. At the same meeting, the Committee elected Juan Manuel Gomez Robledo (Mexico) as Chairman of the Working Group. The Working Group held five meetings, from 29 September to 3 October 2003.

5. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Working Group established pursuant to General Assembly decision 57/512 (A/C.6/58/L.9);

03-60965 (E) 141103

(b) Letter dated 2 April 2003 from the Permanent Representative of Costa Rica to the United Nations addressed to the Secretary-General (A/58/73);

(c) Note verbale dated 17 October 2003 from the Permanent Mission of Cuba to the United Nations addressed to the Office of Legal Affairs of the Secretariat (A/C.6/58/L.15).

II. Consideration of proposals

A. Draft resolution A/C.6/58/L.2

6. At the 10th meeting, on 20 October, the representative of Costa Rica, on behalf of Albania, Angola, Antigua and Barbuda, Benin, Burundi, Chile, Costa Rica, Côte d'Ivoire, the Democratic Republic of the Congo, Dominica, the Dominican Republic, Ecuador, Equatorial Guinea, El Salvador, Eritrea, Ethiopia, Fiji, the Gambia, Georgia, Grenada, Haiti, Honduras, Italy, Kazakhstan, Kenya, Kyrgyzstan, Lesotho, Madagascar, the Marshall Islands, Micronesia (Federated States of), Nauru, Nicaragua, Nigeria, Palau, Panama, Paraguay, the Philippines, Portugal, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Sierra Leone, Spain, Suriname, Tajikistan, Timor-Leste, Turkmenistan, Tuvalu, Uganda, United Republic of Tanzania, the United States of America, Uzbekistan, Vanuatu and Zambia, subsequently joined by the Central African Republic, Chad, Guinea, Guyana, Ireland, Malawi, Nauru, Norway, Papua New Guinea, Sao Tome and Principe, and Solomon Islands, introduced a draft resolution entitled "International convention against human cloning" (A/C.6/58/L.2), which read:

"*The General Assembly*,

"*Recalling* the Universal Declaration on the Human Genome and Human Rights, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 11 November 1997, and in particular article 11 thereof, which states that practices which are contrary to human dignity, such as the reproductive cloning of human beings, shall not be permitted,

"*Recalling also* its resolution 53/152 of 9 December 1998, by which it endorsed the Universal Declaration on the Human Genome and Human Rights,

"*Bearing in mind* Commission on Human Rights resolution 2003/69 of 25 April 2003, entitled 'Human rights and bioethics', adopted at the fifty-ninth session of the Commission,

"*Bearing also in mind* Economic and Social Council resolution 2001/39, entitled 'Genetic privacy and non-discrimination', of 26 July 2001,

"*Aware* of the rapid development of the life sciences and of ethical concerns raised by certain of their applications with regard to the dignity of the human race and the human rights and fundamental freedoms of the individual,

"*Concerned* at recently disclosed information on research into and attempts at the creation of human beings through cloning processes,

"*Convinced* that human cloning, for any purpose whatsoever, is unethical, morally repugnant and contrary to due respect for the human person, and that it cannot be justified or accepted,

"*Recalling also* that recognition of the inherent dignity and equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, as stated in the Universal Declaration of Human Rights,

"*Seeking* to promote scientific and technical progress in the fields of biology and genetics in a manner respectful of human rights and for the benefit of all,

"*Concerned* about the serious difficulties of a medical, physical, psychological and social nature that human cloning may imply for the individuals involved, and alarmed that it may cause the exploitation of women,

"*Recalling* its resolution 56/93 of 12 December 2001, by which it decided to establish an Ad Hoc Committee, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency,

"*Determined* to prevent as a matter of urgency such an attack on the human dignity of the individual,

"1. *Requests* the Ad Hoc Committee to be reconvened from _____ to _____ 2004 in order to prepare, as a matter of urgency, the draft text of an international convention against human cloning, bearing in mind that it will not prohibit the use of nuclear transfer or other cloning techniques to produce DNA molecules, organs, plants, tissues, cells other than human embryos or animals other than humans, and recommends that the work continue during the fifty-ninth session of the General Assembly from _____ to _____ 2004 within the framework of a working group of the Sixth Committee;

"2. *Also requests* the Ad Hoc Committee to consider, in developing the draft convention, the proposals put forward during the fifty-eighth session of the General Assembly;

"3. *Solemnly declares* that, pending the adoption of an international convention against human cloning, States shall prohibit any research, experiment, development or application in their territories or areas under their jurisdiction or control of any technique aimed at human cloning;

"4. *Calls upon* States to adopt such measures as may be necessary to prohibit those techniques of genetic engineering that may have adverse consequences on the respect for human dignity;

"5. *Strongly encourages* States and other entities to direct funds that might have been used for human cloning technologies to pressing global issues in developing countries such as famine, desertification, infant mortality and diseases, including the human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS);

"6. *Requests* the Secretary-General to provide the Ad Hoc Committee with the necessary facilities for the performance of its work;

"7. *Invites* the Ad Hoc Committee to take into consideration the contributions of United Nations agencies and competent international organizations in the process of negotiations;

"8. *Requests* the Ad Hoc Committee to report on its work to the General Assembly at its fifty-ninth session;

"9. *Decides* to include in the provisional agenda of its fifty-ninth session an item entitled 'International convention against human cloning'."

B. Draft resolution A/C.6/58/L.8

7. At the 10th meeting, on 20 October, the representative of Belgium, on behalf of Belarus, Belgium, Brazil, China, Cuba, the Czech Republic, Denmark, Estonia, Finland, Greece, Iceland, Japan, Latvia, Liechtenstein, Lithuania, the Republic of Korea, Singapore, Slovenia, South Africa, Sweden, Switzerland, Turkey and the United Kingdom of Great Britain and Northern Ireland, introduced a draft resolution entitled "International convention against the reproductive cloning of human beings" (A/C.6/58/L.8), which read:

"*The General Assembly*,

"*Recalling* the Universal Declaration on the Human Genome and Human Rights, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 11 November 1997, in particular article 11 thereof, which states that practices that are contrary to human dignity, such as reproductive cloning of human beings, shall not be permitted,

"*Recalling also* its resolution 53/152 of 9 December 1998, by which it endorsed the Universal Declaration on the Human Genome and Human Rights,

"*Bearing in mind* Commission on Human Rights resolution 2003/69 of 25 April 2003, entitled 'Human rights and bioethics', adopted by the Commission at its fifty-ninth session,

"*Mindful* of the importance of the development of the life sciences for the benefit of mankind, with full respect for the integrity and dignity of the human being,

"*Aware* that the rapid development of the life sciences opens up prospects for the improvement of the health of individuals and mankind as a whole, but also that certain practices pose potential dangers to the integrity and dignity of the individual,

"*Concerned* by the seriousness of problems posed by the development of techniques of reproductive cloning of human beings applied to mankind, which may have consequences for respect for human dignity,

"*Particularly concerned*, in the context of practices that are contrary to human dignity, at recently disclosed information on research into and attempts at the reproductive cloning of human beings,

"*Determined* to prevent, as a matter of urgency, such an offence to human dignity,

"*Recalling* its resolution 56/93 of 12 December 2001, by which it decided to establish an Ad Hoc Committee, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, for the purpose of considering the elaboration of an international convention against the reproductive cloning of human beings,

"*Determined* to adopt provisional measures at the national level to prevent potential dangers to the human dignity of the individual pending the adoption and entry into force of an international convention against the reproductive cloning of human beings,

"1. *Welcomes* the report of the Working Group of the Sixth Committee on its work from 29 September to 3 October 2003;

"2. *Decides* that the Ad Hoc Committee shall be reconvened from __ to ___ February and from ___ to ___ September 2004 in order to prepare, as a matter of urgency and if possible by the end of 2004, a draft international convention against the reproductive cloning of human beings;

"3. *Requests* the Ad Hoc Committee, in developing the draft convention, to include the following elements:

"(a) An obligation on all contracting parties to ban reproductive cloning of human beings with no possibility of making any reservations;

"(b) An obligation on all contracting parties to take action to control other forms of human cloning by adopting a ban or imposing a moratorium or regulating them by means of national legislation;

"4. *Also requests* the Ad Hoc Committee to take into consideration the relevant existing international instruments;

"5. *Calls upon* those States that have not yet done so, pending the adoption and entry into force of an international convention against the reproductive cloning of human beings and their becoming party thereto, to adopt at the national level a prohibition against reproductive cloning of human beings;

"6. *Also calls upon* those States that have not yet done so, pending the adoption and entry into force of an international convention against the reproductive cloning of human beings and their becoming party thereto, to take action to control other forms of human cloning by adopting a ban or imposing a moratorium or regulating them by means of national legislation;

"7. *Requests* the Secretary-General to provide the Ad Hoc Committee with the facilities necessary for the performance of its work;

"8. *Invites* the Ad Hoc Committee to take into consideration the contributions of United Nations bodies and to closely involve the United Nations Educational, Scientific and Cultural Organization, the World Health Organization and the United Nations Conference on Trade and Development in the process of negotiations;

"9. *Requests* the Ad Hoc Committee to report on its work to the General Assembly at its fifty-ninth session;

"10. *Decides* to include in the provisional agenda of its fifty-ninth session the item entitled 'International convention against the reproductive cloning of human beings'."

C. Motion to adjourn the debate on the item, under rule 116 of the rules of procedure of the General Assembly, until the sixtieth session of the General Assembly

8. At the 23rd meeting, on 6 November, the representative of the Islamic Republic of Iran, on behalf of the States members of the Organization of the Islamic Conference, moved, in accordance with rule 116 of the rules of procedure of the General Assembly, to adjourn the debate on the item under discussion until the sixtieth session of the General Assembly (see A/C.6/58/SR.23).

9. The representatives of Belgium and India spoke in favour of the motion, and the representatives of Uganda and Spain spoke against (see A/C.6/58/SR.23).

10. At the same meeting, the motion to adjourn the debate on item 158 until the sixtieth session was carried by a recorded vote of 80 votes to 79, with 15 abstentions. The voting was as follows:

In favour:

Algeria, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Belarus, Belgium, Botswana, Brazil, Brunei Darussalam, Bulgaria, Cambodia, China, Comoros, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Djibouti, Egypt, Estonia, Finland, France, Gabon, Germany, Greece, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Japan, Jordan, Kuwait, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Monaco, Morocco, Myanmar, Namibia, Netherlands, New Zealand, Niger, Oman, Pakistan, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Singapore, Slovenia, South Africa, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Tonga, Tunisia, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Andorra, Angola, Antigua and Barbuda, Australia, Austria, Barbados, Belize, Bolivia, Bosnia and Herzegovina, Burundi, Central African Republic, Chile, Costa Rica, Democratic Republic of the Congo, Dominica, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Gambia, Georgia, Grenada, Guatemala, Guinea, Guyana, Haiti, Honduras, Ireland, Israel, Italy, Kazakhstan, Kenya, Kyrgyzstan, Lesotho, Madagascar, Malawi, Malta, Marshall Islands, Micronesia (Federated States of), Nauru, Nepal, Nicaragua, Nigeria, Norway, Palau, Panama, Papua New Guinea, Paraguay, Philippines, Poland, Portugal, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Sierra Leone, Slovakia, Solomon Islands, Somalia, Spain, Suriname, Tajikistan, Timor-Leste, Trinidad and Tobago, Tuvalu, Uganda, United Republic of Tanzania, United States of America, Uzbekistan, Vanuatu, Venezuela, Zambia.

Abstaining:

Bangladesh, Bhutan, Burkina Faso, Cameroon, Canada, Cape Verde, Colombia, Jamaica, Peru, Republic of Moldova, Romania, Serbia and Montenegro, the former Yugoslav Republic of Macedonia, Ukraine, Uruguay.

11. The representatives of Germany (also on behalf of France), Canada, Mexico, Romania and Nigeria made statements in explanation of position after the vote (see A/C.6/58/SR.23).

12. The Chairman of the Committee indicated that it was his understanding that it necessarily followed that the Sixth Committee, in effect, recommended that the General Assembly include the item in the agenda of its sixtieth session (see para. 14 below).

13. The Chairman also indicated that, accordingly, no action would be taken on draft resolutions A/C.6/58/L.2 and A/C.6/58/L.8.

III. Recommendation of the Sixth Committee

14. In connection with paragraph 12, the Sixth Committee recommends to the General Assembly that the item entitled "International convention against the reproductive cloning of human beings" be included in the provisional agenda of the sixtieth session of the General Assembly.